

**OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE
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CONTACT:

2002-115

**RICHARD MILLS / RICARDO REYES
202-395-3230**

**United States Proposes Flexibility Reforms in WTO Dispute Settlement
- Proposal Advances Doha Agenda Discussions**

WASHINGTON - The United States, joined by Chile, today submitted a proposal to help improve the effectiveness of the World Trade Organization dispute settlement system in resolving trade disputes among WTO Members. The proposal is particularly aimed at giving parties to a dispute more control over the process and greater flexibility to settle disputes. The United States submitted the proposal in connection with the ongoing Doha Agenda negotiations taking place in Geneva to improve and clarify WTO dispute settlement rules.

"The United States was a key proponent of the World Trade Organization and its process for settling disputes among trading nations. America benefits from an effective and efficient dispute settlement system. While a country may win or lose particular disputes, everyone wins by having a rules-based system to resolve problems," said U.S. Trade Representative Robert B. Zoellick. "Today's proposal will improve the dispute settlement system by providing greater flexibility, and by giving countries more control over the process in order facilitate the settling of disputes. The purpose of the system is to settle disputes, and these proposals will help do that. "

Under the present dispute settlement system, parties are encouraged to resolve their disputes, but do not always have all the tools with which to do so. Today's proposal contains specific options aimed at giving parties greater flexibility and more control over the process. In particular:

- Parties to a dispute currently have a right to see and comment on a draft of the panel report before the panel finalizes it, but there is no such corresponding right at the appeal stage. Under the proposal, parties to a dispute would for the first time have the right to see and comment on an Appellate Body report before it is made final. This would help ensure the best possible final report since parties would have the chance to provide useful clarifications on the facts and the law prior to the issuance of the final report.

- At present, dispute settlement reports are a "take it or leave it" proposition where WTO countries must accept or reject dispute settlement reports in their entirety, without modification. Under the proposal, countries would also get the ability to reject specific aspects of reports that hinder settlement or do not accurately reflect the obligations that were agreed on by the

negotiators.

- Countries currently have a limited ability to suspend dispute settlement proceedings once they have begun. Panel proceedings can be suspended only if the panel accepts a request from a complaining party; appeal proceedings cannot be suspended. Under the proposal, parties would get the ability to suspend appeal proceedings, and they would get an enhanced ability to suspend panel proceedings. The additional time can be important to allow parties to continue progress to reach a solution. The United States has often used additional time at the consultation phase to settle disputes (such as in the recent dispute with Argentina over its protection of intellectual property), but the current rules make it more difficult to do so once panel proceedings have begun.

- Experience to date shows that it can be helpful for the panelists to have the appropriate expertise concerning the particular issues in a dispute, although the current agreement does not speak to this issue. The proposal would ensure that panelists have appropriate expertise.

- Some WTO Members have expressed concern that panels and the Appellate Body could benefit from additional guidance on the scope and nature of the tasks entrusted to them, and on the rules of interpretation of the specific WTO agreements. The proposal calls for providing such guidance.

Background

The WTO dispute settlement system differs significantly from that of domestic judicial systems due to the fact that WTO dispute settlement is between sovereign nations. For example, the chance to see and comment on draft reports is a right under WTO dispute settlement, but parties in domestic litigation would never see or comment on a draft of the court's opinion. Today's proposal builds on some of the aspects particular to the WTO system.

The meeting of WTO trade ministers in Doha, Qatar in November 2001 called for negotiations to clarify and improve the WTO Understanding on Rules and Procedures Governing the Settlement of Disputes. Today's proposal will be considered by the Special Session of the WTO Dispute Settlement Body, which is handling these negotiations, that have a goal of May 2003 for completion.

Today's proposal follows an August 2002 U.S. proposal to improve transparency in WTO dispute settlement proceedings. That proposal would open WTO dispute settlement proceedings and provide greater public access to briefs and panel reports, and calls on WTO members to consider rules for "amicus curiae" submissions. The United States will continue to work with other delegations on these and other proposals to improve the WTO dispute settlement system.

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